

HOUSE BILL 391

C5

EMERGENCY BILL
ENROLLED BILL

(11r0328)

— *Economic Matters/Finance* —

Introduced by **Delegate Feldman and the Speaker (By Request – Administration) and Delegates Arora, Barkley, Barve, Cane, Carr, Conaway, Cullison, DeBoy, Dumais, Frick, Frush, Gilchrist, Gutierrez, Healey, Hixson, Huckler, Ivey, Kaiser, A. Kelly, Kipke, Kramer, Lafferty, Lee, Luedtke, McMillan, A. Miller, Mizeur, Pendergrass, Reznik, B. Robinson, S. Robinson, Simmons, Summers, F. Turner, V. Turner, Waldstreicher, Washington, and Zucker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Electricity Service Quality and Reliability Act – Safety Violations**

3 FOR the purpose of requiring the Public Service Commission to adopt certain
4 regulations on or before a certain date that implement certain service quality
5 and reliability standards relating to the delivery of electricity to retail
6 customers by electric companies; requiring certain regulations to include certain
7 service quality and reliability standards, ~~include~~ account for certain major
8 outages, and require an electric company to file a corrective action plan if it fails
9 to meet certain service quality and reliability standards; authorizing the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Commission to include in certain regulations a separate reliability standard for
 2 each electric company, and require the use of nationally recognized standards
 3 for certain purposes; requiring the Commission, in adopting certain regulations,
 4 to consider certain standards, ensure certain service quality and reliability
 5 standards are cost-effective, and consider certain factors relating to vegetation
 6 management; requiring the Commission, on or before a certain date, and each
 7 year thereafter, to determine whether certain electric companies have met
 8 certain service quality and reliability standards; requiring the Commission to
 9 take certain appropriate enforcement action against ~~an~~ a certain electric
 10 company if the electric company fails to meet certain service quality and
 11 reliability standards; ~~requiring that certain civil penalties be credited to a~~
 12 ~~certain electric company's residential ratepayers in a manner determined by the~~
 13 ~~Commission~~ authorizing the Commission to impose a certain civil penalties
 14 ~~penalty on or after a certain date~~; prohibiting an electric company from
 15 recovering the cost of a certain civil penalty from ratepayers; providing that
 16 certain provisions relating to corrective action taken by the Commission against
 17 an electric company that fails to meet certain service quality and reliability
 18 standards do not apply to electric cooperatives; requiring each electric company
 19 to submit to the Commission a certain annual performance report; setting forth
 20 required contents of the annual performance report; requiring the Commission
 21 to hold a certain hearing at the request of an electric company; altering the
 22 maximum daily civil penalty that may be imposed on a public service company
 23 for certain violations; altering the maximum daily civil penalty that may be
 24 imposed on a public service company for certain safety violations; removing a
 25 certain cap on the total civil penalty that may be imposed for a related series of
 26 safety violations; declaring a certain goal of the State; providing that ~~certain~~
 27 ~~regulations may~~ this Act does not apply to small rural electric cooperatives or
 28 municipal electric companies; providing that this Act may not be construed to
 29 limit the Commission's authority to adopt and enforce engineering and safety
 30 standards for electric companies; ~~providing that certain authorization for the~~
 31 ~~Commission to impose certain civil penalties does not apply to a violation of a~~
 32 ~~certain provision as that provision applies to electric cooperatives; requiring the~~
 33 Commission to establish a certain workgroup to provide certain
 34 recommendations; providing that this Act may not be construed to limit the
 35 Commission's authority to impose penalties for certain violations; defining
 36 certain terms; making this Act an emergency measure; and generally relating to
 37 electricity *safety and* reliability standards.

38 BY adding to

39 Article – Public Utilities
 40 Section 7–213
 41 Annotated Code of Maryland
 42 (2010 Replacement Volume)

43 BY repealing and reenacting, with amendments,

44 Article – Public Utilities
 45 Section 13–201 and 13–202

1 Annotated Code of Maryland
2 (2010 Replacement Volume)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Public Utilities**

6 **7-213.**

7 (A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE
8 MEANINGS INDICATED.

9 (2) “SYSTEM-AVERAGE INTERRUPTION DURATION INDEX” OR
10 “SAIDI” MEANS THE ~~AVERAGE DURATION OF POWER OUTAGES FOR EACH~~
11 ~~ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL OF ALL~~
12 ~~CUSTOMER INTERRUPTION DURATIONS BY THE TOTAL NUMBER OF CUSTOMERS~~
13 ~~SERVED~~ SUM OF THE CUSTOMER INTERRUPTION HOURS DIVIDED BY THE TOTAL
14 NUMBER OF CUSTOMERS SERVED.

15 (3) “SYSTEM-AVERAGE INTERRUPTION FREQUENCY INDEX” OR
16 “SAIFI” MEANS THE ~~AVERAGE NUMBER OF POWER OUTAGES FOR EACH~~
17 ~~ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL NUMBER OF~~
18 ~~CUSTOMER INTERRUPTIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~
19 SUM OF THE NUMBER OF CUSTOMER INTERRUPTIONS DIVIDED BY THE TOTAL
20 NUMBER OF CUSTOMERS SERVED.

21 ~~(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY~~
22 ~~RANK IN THE TOP QUARTILE OF ELECTRIC COMPANIES NATIONALLY WITH THE~~
23 ~~HIGHEST LEVELS OF SERVICE QUALITY AND RELIABILITY.~~

24 (B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY
25 PROVIDE ITS CUSTOMERS WITH HIGH LEVELS OF SERVICE QUALITY AND
26 RELIABILITY IN A COST-EFFECTIVE MANNER, AS MEASURED BY OBJECTIVE AND
27 VERIFIABLE STANDARDS, AND THAT EACH ELECTRIC COMPANY BE HELD
28 ACCOUNTABLE IF IT FAILS TO DELIVER RELIABLE SERVICE ACCORDING TO
29 THOSE STANDARDS.

30 ~~(C) REGULATIONS ADOPTED UNDER THIS~~ THIS SECTION MAY DOES NOT
31 APPLY TO SMALL RURAL ELECTRIC COOPERATIVES OR MUNICIPAL ELECTRIC
32 COMPANIES.

33 (D) ON OR BEFORE JULY 1, 2012, THE COMMISSION SHALL ADOPT
34 REGULATIONS THAT IMPLEMENT SERVICE QUALITY AND RELIABILITY

1 STANDARDS RELATING TO THE DELIVERY OF ELECTRICITY TO RETAIL
 2 CUSTOMERS BY ELECTRIC COMPANIES THROUGH THEIR DISTRIBUTION
 3 SYSTEMS, USING:

4 (1) SAIFI;

5 (2) SAIDI; AND

6 (3) ANY OTHER ~~STANDARD~~ PERFORMANCE MEASUREMENT THAT
 7 THE COMMISSION DETERMINES TO BE REASONABLE.

8 (E) (1) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF
 9 THIS SECTION SHALL:

10 ~~(I)~~ (I) INCLUDE SERVICE QUALITY AND RELIABILITY
 11 STANDARDS, INCLUDING STANDARDS RELATING TO:

12 ~~(I)~~ 1. SERVICE INTERRUPTION;

13 ~~(II)~~ 2. DOWNED WIRE ~~REPAIR~~ RESPONSE;

14 ~~(III)~~ 3. ~~SERVICE QUALITY~~ CUSTOMER COMMUNICATIONS;

15 ~~(IV)~~ 4. VEGETATION MANAGEMENT;

16 5. PERIODIC EQUIPMENT INSPECTIONS;

17 ~~(V)~~ 6. ANNUAL RELIABILITY REPORTING; AND

18 ~~(VI)~~ 7. ANY OTHER STANDARDS ESTABLISHED BY THE
 19 COMMISSION;

20 (II) ACCOUNT FOR MAJOR OUTAGES CAUSED BY EVENTS
 21 OUTSIDE THE CONTROL OF AN ELECTRIC COMPANY; AND

22 (III) FOR AN ELECTRIC COMPANY THAT FAILS TO MEET THE
 23 APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS, REQUIRE THE
 24 COMPANY TO FILE A CORRECTIVE ACTION PLAN THAT DETAILS SPECIFIC
 25 ACTIONS THE COMPANY WILL TAKE TO MEET THE STANDARDS.

26 (2) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF
 27 THIS SECTION MAY INCLUDE A SEPARATE RELIABILITY STANDARD FOR EACH
 28 ELECTRIC COMPANY IN ORDER TO ACCOUNT FOR SYSTEM RELIABILITY
 29 DIFFERENTIATING FACTORS, INCLUDING:

- 1 (I) SYSTEM DESIGN;
- 2 (II) EXISTING INFRASTRUCTURE;
- 3 (III) CUSTOMER DENSITY; AND
- 4 (IV) GEOGRAPHY; ~~AND.~~

5 ~~(3) REQUIRE THE USE OF NATIONALLY RECOGNIZED STANDARDS~~
6 ~~TO NORMALIZE;~~

- 7 ~~(I) MAJOR OUTAGE EVENTS;~~
- 8 ~~(II) ANOMALOUS EVENTS THAT DO NOT ACHIEVE MAJOR~~
9 ~~OUTAGE STATUS;~~
- 10 ~~(III) YEAR TO YEAR WEATHER IMPACTS; AND~~
- 11 ~~(IV) OTHER FACTORS THAT THE COMMISSION IDENTIFIES.~~

12 (3) IN ADOPTING THE REGULATIONS REQUIRED UNDER
13 SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL:

14 (I) CONSIDER APPLICABLE STANDARDS OF THE INSTITUTE
15 OF ELECTRICAL AND ELECTRONICS ENGINEERS;

16 (II) ENSURE THAT THE SERVICE QUALITY AND RELIABILITY
17 STANDARDS ARE COST-EFFECTIVE; AND

18 (III) WITH RESPECT TO STANDARDS RELATING TO
19 VEGETATION MANAGEMENT, CONSIDER:

20 1. LIMITATIONS ON AN ELECTRIC COMPANY'S RIGHT
21 TO ACCESS PRIVATE PROPERTY; AND

22 2. CUSTOMER ACCEPTANCE OF VEGETATION
23 MANAGEMENT INITIATIVES.

24 (F) (1) ON OR BEFORE JULY 1, 2013, AND JULY 1 OF EACH YEAR
25 THEREAFTER, THE COMMISSION SHALL DETERMINE WHETHER EACH ELECTRIC
26 COMPANY HAS MET THE SERVICE QUALITY AND RELIABILITY STANDARDS
27 ADOPTED BY THE COMMISSION FOR THAT ELECTRIC COMPANY UNDER
28 SUBSECTION (D) OF THIS SECTION.

1 (2) (I) THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC
2 COOPERATIVES.

3 (II) THE COMMISSION SHALL TAKE APPROPRIATE
4 CORRECTIVE ACTION AGAINST AN ELECTRIC COMPANY THAT FAILS TO MEET
5 ANY OR ALL OF THE APPLICABLE SERVICE QUALITY AND RELIABILITY
6 STANDARDS ~~ADOPTED BY THE COMMISSION UNDER THIS SECTION,~~ INCLUDING,
7 ~~ON OR AFTER JULY 1, 2014,~~ THE IMPOSITION OF APPROPRIATE CIVIL
8 PENALTIES FOR NONCOMPLIANCE AS PROVIDED IN § 13-201 OF THIS ARTICLE.

9 ~~(3) NOTWITHSTANDING § 13-201 OF THIS ARTICLE, CIVIL~~
10 ~~PENALTIES COLLECTED UNDER THIS SECTION SHALL BE CREDITED TO THE~~
11 ~~ELECTRIC COMPANY'S RESIDENTIAL RATEPAYERS IN A MANNER THE~~
12 ~~COMMISSION DETERMINES.~~

13 ~~(4)~~ (III) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST
14 OF ANY CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.

15 (G) (1) ON OR BEFORE ~~MAY~~ FEBRUARY 1 OF EACH YEAR, EACH
16 ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION AN ANNUAL
17 PERFORMANCE REPORT THAT SUMMARIZES THE ACTUAL ELECTRIC SERVICE
18 RELIABILITY RESULTS FOR THE PRECEDING YEAR.

19 (2) THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE:

20 (I) THE ELECTRIC COMPANY'S AVERAGE 3-YEAR
21 PERFORMANCE RESULTS;

22 (II) ACTUAL YEAR-END PERFORMANCE MEASURE RESULTS;

23 (III) AN ASSESSMENT OF THE RESULTS AND EFFECTIVENESS
24 OF THE RELIABILITY OBJECTIVES, PLANNED ACTIONS AND PROJECTS,
25 PROGRAMS, AND LOAD STUDIES IN ACHIEVING AN ACCEPTABLE RELIABILITY
26 LEVEL; AND

27 (IV) ANNUAL INFORMATION THAT THE COMMISSION
28 DETERMINES NECESSARY TO ASSESS THE ELECTRIC COMPANY'S EFFORTS TO
29 MAINTAIN RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS IN THE ELECTRIC
30 COMPANY'S SERVICE TERRITORY, INCLUDING:

31 1. CURRENT YEAR EXPENDITURES, LABOR
32 RESOURCE HOURS, AND PROGRESS MEASURES FOR EACH CAPITAL AND

1 MAINTENANCE PROGRAM DESIGNED TO SUPPORT THE MAINTENANCE OF
2 RELIABLE ELECTRIC SERVICE;

3 2. THE NUMBER OF OUTAGES BY OUTAGE TYPE;

4 3. THE NUMBER OF OUTAGES BY OUTAGE CAUSE;

5 4. THE TOTAL NUMBER OF CUSTOMERS THAT
6 EXPERIENCED AN OUTAGE; ~~AND~~

7 5. THE TOTAL CUSTOMER MINUTES OF OUTAGE TIME
8 ; AND

9 6. TO THE EXTENT PRACTICABLE, A BREAKDOWN, BY
10 THE NUMBER OF DAYS EACH CUSTOMER WAS WITHOUT ELECTRIC SERVICE, OF
11 THE NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE.

12 (3) AT THE REQUEST OF AN ELECTRIC COMPANY, THE
13 COMMISSION SHALL HOLD A HEARING TO DISCUSS THE ANNUAL PERFORMANCE
14 REPORT OF THE ELECTRIC COMPANY.

15 (H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE
16 COMMISSION'S AUTHORITY TO ADOPT AND ENFORCE ENGINEERING AND SAFETY
17 STANDARDS FOR ELECTRIC COMPANIES.

18 13-201.

19 (a) This section does not apply to a violation of the following provisions of
20 this article:

21 (1) Title 5, Subtitle 4;

22 (2) Title 7, Subtitle 1;

23 (3) § 7-213 AS IT APPLIES TO ELECTRIC COOPERATIVES;

24 (4) Title 8, Subtitles 1 and 3;

25 [(4)] (5) Title 9, Subtitle 3; and

26 [(5)] (6) Title 8, Subtitle 4.

27 (b) (1) Except as provided in paragraph (2) of this subsection, the
28 Commission may impose a civil penalty not exceeding ~~\$10,000~~ \$25,000 against a

1 person who violates a provision of this division, or an effective and outstanding
2 direction, ruling, order, rule, or regulation of the Commission.

3 (2) The civil penalty that the Commission may impose on a common
4 carrier for each violation may not exceed \$2,500.

5 (c) (1) A civil penalty may be imposed in addition to any other penalty
6 authorized by this division.

7 (2) Each violation is a separate offense.

8 (3) Each day or part of a day the violation continues is a separate
9 offense.

10 (d) The Commission shall determine the amount of any civil penalty after
11 considering:

12 (1) the number of previous violations of any provision of this article;

13 (2) the gravity of the current violation;

14 (3) the good faith efforts of the violator in attempting to achieve
15 compliance after notification of the violation; and

16 (4) any other matter that the Commission considers appropriate and
17 relevant.

18 (e) A civil penalty collected under this section shall be paid into the General
19 Fund of the State.

20 13-202.

21 (a) In this section, "safety violation" means a condition or activity likely to
22 cause injury or harm to an individual or property.

23 (b) This section does not apply to a safety violation by a gas company that is
24 subject to § 13-203 of this subtitle.

25 (c) (1) Subject to paragraph (2) of this subsection, a public service
26 company that violates a provision of this division that relates to safety is subject to a
27 civil penalty not exceeding [\$500] ~~\$10,000~~ **\$25,000** for each violation for each day
28 that the violation persists.

29 (2) [The maximum civil penalty may not exceed:

30 (i) \$50,000 for a related series of violations; or

1 (ii) ~~for~~ **FOR** a common carrier, **THE MAXIMUM CIVIL**
2 **PENALTY MAY NOT EXCEED \$500** for each violation or related series of violations
3 stemming from a single safety inspection.

4 (d) In determining the amount of a civil penalty imposed under this section,
5 the Commission shall consider the:

6 (1) appropriateness of the penalty to the size of the public service
7 company;

8 (2) number of previous violations of this article by the public service
9 company;

10 (3) gravity of the current violation; and

11 (4) good faith of the public service company in attempting to achieve
12 compliance after notification of the violation.

13 (e) The public service company involved may request reconsideration of a
14 penalty imposed under this section within 30 days after the date of notification of the
15 determination.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Public
17 Service Commission shall:

18 (1) review current regulations, tariffs, or standards relating to electric
19 company responsibility for customer damages caused by electrical surges and assess the
20 feasibility of obtaining information from electric companies regarding the extent of
21 electrical surges and customer damages that result from electrical surges;

22 (2) study the feasibility of incorporating an electric company's service
23 restoration plan into the electric company's reliability plan;

24 (3) study and consider whether to prohibit an electric company from
25 calculating the rate charged by the electric company using a formula that decouples the
26 electric company's revenue from the sale of kilowatt-hours unless the formula provides
27 for the suspension of decoupling during any extended service disruption; and

28 (4) on or before January 1, 2012, report its findings to the Senate
29 Finance Committee and the House Economic Matters Committee, in accordance with §
30 2-1246 of the State Government Article.

31 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That the Public Service
32 Commission shall convene a stakeholder workgroup to provide recommendations
33 regarding the regulations to be adopted by the Commission under this Act.

1 SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act shall
2 be construed as limiting the authority of the Public Service Commission to impose
3 penalties for violations of law or regulation in existence before the effective date of this
4 Act.

5 SECTION ~~2~~ ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act is an
6 emergency measure, is necessary for the immediate preservation of the public health
7 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
8 members elected to each of the two Houses of the General Assembly, and shall take
9 effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.